

Subject: RE: Experts

Date: 7/18/2019 1:31 PM

From: "Cross, David D." <DCross@mofo.com>

To: "Bryan Tyson" <btyson@taylorenGLISH.com>, "Vincent Russo" <vrusso@robbinsfirm.com>, "Bruce Brown" <bbrown@brucebrownlaw.com>

Cc: "Chapple, Catherine L." <CChapple@mofo.com>, "Josh Belinfante" <Josh.Belinfante@robbinsfirm.com>, "Kimberly Anderson" <Kimberly.Anderson@robbinsfirm.com>, "Carey Miller" <carey.miller@robbinsfirm.com>, "Brian Lake" <Brian.Lake@robbinsfirm.com>, "Alexander Denton" <Alexander.Denton@robbinsfirm.com>, "Bryan Jacoutot" <bjacoutot@taylorenGLISH.com>, "Conaway, Jenna B." <JConaway@mofo.com>, "Burwell, Kaye" <Kaye.Burwell@fultoncountyga.gov>, "Cheryl Ringer" <Cheryl.ringer@fultoncountyga.gov>, "David Lowman" <david.lowman@fultoncountyga.gov>

1. Yes

2. Yes

3. Yes we plan to call them as adverse witnesses and may have additional examination after any examination you conduct of them, whether in our case or your own if you decide to recall them yourselves. Our estimates anticipate capturing all time we'd use with each, but of course we don't know what you'll do with them yet.

4. Hard to say given we'll be immediately heading into a weekend with a ton of work to do still for the hearing and we don't know when we'll get the transcript and video. I suggest both sides designate what they want and plan to present their portions to the Court. Any designations by you will come out of your allotted time, of course, as ours will with our time. This ensures each side can present what it believes will aid the Court.

From: Bryan Tyson <btyson@taylorenGLISH.com>

Date: Thursday, Jul 18, 2019, 1:13 PM

To: Cross, David D. <DCross@mofo.com>, Vincent Russo <vrusso@robbinsfirm.com>, Bruce Brown <bbrown@brucebrownlaw.com>

Cc: Chapple, Catherine L. <CChapple@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Carey Miller <carey.miller@robbinsfirm.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, Bryan Jacoutot <bjacoutot@taylorenGLISH.com>, Conaway, Jenna B. <JConaway@mofo.com>, 'Burwell, Kaye' <Kaye.Burwell@fultoncountyga.gov>, 'Cheryl Ringer' <Cheryl.ringer@fultoncountyga.gov>, 'David Lowman' <david.lowman@fultoncountyga.gov>

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- External Email -

David,

State Defendants and Fulton talked this morning and believe that the concept for time management that you outlined will work for the hearing, with clarification on a few points. Specifically:

1. Regarding the proposed times in your designation of witnesses, because your filing indicates that your estimates are only for the Plaintiffs' portion, do you also envision the time to cross witnesses put up by Defendants counting against your total time?
2. Regarding the use of Dr. Shamos' deposition, do you envision that also counting against the total time?
3. For witnesses that appear on both of our lists (such as Mr. Beaver and Mr. Barnes), are you planning to call

them as your witnesses? Are we also assuming your estimates do not include potential time on cross? Or are they the entirety of what you expect to need to ask?

4. Setting aside the question of how Shamos testifies (we are not waiving the Skype or phone proposal), if you are designating portions of Dr. Shamos' deposition to play for the court, when do you expect to have those designations so that we can prepare our designations in response?

Thanks,

Bryan



Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenglish.com

[Website](#) | [vCard](#)

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From: Cross, David D. <DCross@mofo.com>

Sent: Wednesday, July 17, 2019 5:53 PM

To: Vincent Russo <vrusso@robbinsfirm.com>; Bruce Brown <bbrown@brucebrownlaw.com>

Cc: Chapple, Catherine L. <CChapple@mofo.com>; Bryan Tyson <btyson@taylorenglish.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Carey Miller <carey.miller@robbinsfirm.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; Bryan Jacoutot <bjacoutot@taylorenglish.com>; Conaway, Jenna B. <JConaway@mofo.com>; 'Burwell, Kaye' <Kaye.Burwell@fultoncountyga.gov>; 'Cheryl Ringer' <Cheryl.ringer@fultoncountyga.gov>; 'David Lowman' <david.lowman@fultoncountyga.gov>

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Ok. Thanks.

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Wednesday, Jul 17, 2019, 5:50 PM

To: Cross, David D. <DCross@mofo.com>, Bruce Brown <bbrown@brucebrownlaw.com>

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- External Email -

David –

You are correct that the witness lists require time estimates, which is why we wanted to see the estimates and then come up with a plan. I think your approach will be fine, but let's look at the witness lists first.

Vincent

Vincent R. Russo | 404.856.3260 | 

From: Cross, David D. [<mailto:DCross@mofo.com>]

Sent: Wednesday, July 17, 2019 5:43 PM

To: Vincent Russo <vrusso@robbinsfirm.com>; Bruce Brown <bbrown@brucepbrownlaw.com>
Cc: Chapple, Catherine L. <CChapple@mofo.com>; Bryan Tyson <btysen@taylorenglish.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Carey Miller <carey.miller@robbinsfirm.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bjacoutot@taylorenglish.com; Conaway, Jenna B. <JConaway@mofo.com>; 'Burwell, Kaye' <Kaye.Burwell@fultoncountyga.gov>; 'Cheryl Ringer' <Cheryl.ringer@fultoncountyga.gov>; 'David Lowman' <david.lowman@fultoncountyga.gov>

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Vincent -

Bruce agrees with the proposal.

We should resolve this quickly today because the witness lists require time estimates as I understand. That's hard to determine in a vacuum. Splitting the time evenly let's everyone plan accordingly by knowing how much total time they have for their respective examinations and arguments. And an even split makes it fair.

Thanks.

DC

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Wednesday, Jul 17, 2019, 5:39 PM

To: Cross, David D. <DCross@mofo.com>, Bruce Brown <bbrown@brucepbrownlaw.com>
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- External Email -

David,

We will discuss internally and confer with Fulton County. This looks like a reasonable approach, but we haven't seen the witness lists yet. Let's plan to circle up on this in the morning after we know the estimated times for witnesses. Also, just to confirm, is Bruce in agreement with your proposed plan?

Thanks,

Vincent

Vincent R. Russo | 404.856.3260 | 

From: Cross, David D. [<mailto:DCross@mofo.com>]

Sent: Wednesday, July 17, 2019 5:07 PM

To: Vincent Russo <vrusso@robbinsfirm.com>; Bruce Brown <bbrown@brucebrownlaw.com>
Cc: Chapple, Catherine L. <CChapple@mofo.com>; Bryan Tyson <btyson@taylorenglish.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Carey Miller <carey.miller@robbinsfirm.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bjacoutot@taylorenglish.com; Conaway, Jenna B. <JConaway@mofo.com>; 'Burwell, Kaye' <Kaye.Burwell@fultoncountyga.gov>; 'Cheryl Ringer' <Cheryl.ringer@fultoncountyga.gov>; 'David Lowman' <david.lowman@fultoncountyga.gov>

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I just realized Fulton wasn't included below. My apologies. We'd appreciate the State Defendants coordinating with Fulton and letting us know about this today. Thanks.

From: Cross, David D. <DCross@mofo.com>

Date: Wednesday, Jul 17, 2019, 4:59 PM

To: Vincent Russo <vrusso@robbinsfirm.com>, Bruce Brown <bbrown@brucebrownlaw.com>
Cc: Chapple, Catherine L. <CChapple@mofo.com>, Bryan Tyson <btyson@taylorenglish.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Carey Miller <carey.miller@robbinsfirm.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, bjacoutot@taylorenglish.com <bjacoutot@taylorenglish.com>, Conaway, Jenna B. <JConaway@mofo.com>

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Vincent –

To ensure an equitable allocation of time and to facilitate planning for the hearing, we propose a 50/50 split of time. We estimate approximately 11 hours of in-court time across two days. We propose each side gets 5.5 hours for openings, witnesses (directs/crosses/recrosses/redirects), and closings. The parties would keep a "chess clock" to track time. This is customary in our experience in federal trials. Please let us know ASAP today if you agree to this so we can plan accordingly.

Thanks,

DC

From: Vincent Russo <vrusso@robbinsfirm.com>

Sent: Wednesday, July 17, 2019 3:37 PM

To: Cross, David D. <DCross@mofo.com>; Bruce Brown <bbrown@brucebrownlaw.com>
Cc: Chapple, Catherine L. <CChapple@mofo.com>; Bryan Tyson <btyson@taylorenglish.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Carey Miller <carey.miller@robbinsfirm.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bjacoutot@taylorenglish.com

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David –

We produced all documents relied upon by Dr. Shamos and Theresa Payton for their declarations. The assessments were included in the production.

Vincent

From: Cross, David D. [<mailto:DCross@mofo.com>]

Sent: Wednesday, July 17, 2019 3:33 PM

To: Vincent Russo <vrusso@robbinsfirm.com>; Bruce Brown <bbrown@brucepbrownlaw.com>

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Vincent –

Have you all produced all documents your experts relied on for their declarations? Does this include all documents addressed in Ms. Payton's declaration, including without limitation all documents relating to the assessments of the GA SOS networks, systems, vendors, etc.; cybersecurity policies and procedures; cyber-incident response and analysis; the SOS IT environment? Please let us know ASAP today.

Thanks.

DC

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